

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

INTELLECTUAL VENTURES I LLC and
INTELLECTUAL VENTURES II LLC

Plaintiffs,

v.

BANK OF AMERICA, NATIONAL
ASSOCIATION,

Defendant.

BANK OF AMERICA, NATIONAL
ASSOCIATION,

Counterclaimants,

v.

INTELLECTUAL VENTURES I LLC and
INTELLECTUAL VENTURES II LLC

Counterdefendants.

CASE NO. 3:13-cv-358

JURY TRIAL DEMANDED

PLAINTIFFS' ANSWER TO COUNTERCLAIMS

Plaintiffs, Intellectual Ventures I LLC (“Intellectual Ventures I”) and Intellectual Ventures II LLC (“Intellectual Ventures II”); (collectively “IV”) hereby respond to the allegations in the counterclaims by Defendant and Counterclaimant Bank of America, National Association (“BANA”) as follows:

COUNTERCLAIMS

PARTIES

1. IV admits the allegations of paragraph 1 of BANA’s counterclaims.
2. IV admits the allegations of paragraph 2 of BANA’s counterclaims.
3. IV admits the allegations of paragraph 3 of BANA’s counterclaims.

JURISDICTION AND VENUE

4. IV neither admits nor denies the allegations of paragraph 4 of BANA's counterclaims as they state a legal conclusion.

5. IV neither admits nor denies the allegations of paragraph 5 of BANA's counterclaims as they state a legal conclusion.

6. IV neither admits nor denies the allegations of paragraph 6 of BANA's counterclaims as they state a legal conclusion.

FACTUAL ALLEGATIONS

7. IV admits the allegations of paragraph 7 of BANA's counterclaims.

8. IV admits the allegations of paragraph 8 of BANA's counterclaims.

9. IV admits the allegations of paragraph 9 of BANA's counterclaims.

10. IV admits the allegations of paragraph 10 of BANA's counterclaims, but the motion is moot.

11. IV admits the allegations of paragraph 11 of BANA's counterclaims only to the extent that IV admits that BAC and BANA have denied infringement and deny that each of the Patents-in-Suit is valid and enforceable against BAC or BANA. Otherwise, denied.

12. IV admits the allegations of paragraph 12 of BANA's counterclaims.

FIRST COUNTERCLAIM

Declaratory Judgment of Non-Infringement of the 701 Patent

13. IV realleges its responses to paragraphs 1-12 of BANA's counterclaims.

14. IV denies the allegations of paragraph 14 of BANA's counterclaims.

15. IV denies the allegations of paragraph 15 of BANA's counterclaims.

SECOND COUNTERCLAIM

Declaratory Judgment of Invalidity of the 701 Patent

16. IV realleges its responses to paragraphs 1-12 of BANA's counterclaims.

17. IV denies the allegations of paragraph 17 of BANA's counterclaims.

18. IV denies the allegations of paragraph 18 of BANA's counterclaims.

THIRD COUNTERCLAIM

Declaratory Judgment of Non-Infringement of the 382 Patent

- 19. IV realleges its responses to paragraphs 1-12 of BANA's counterclaims.
- 20. IV denies the allegations of paragraph 20 of BANA's counterclaims.
- 21. IV denies the allegations of paragraph 21 of BANA's counterclaims.

FOURTH COUNTERCLAIM

Declaratory Judgment of Invalidity of the 382 Patent

- 22. IV realleges its responses to paragraphs 1-12 of BANA's counterclaims.
- 23. IV denies the allegations of paragraph 23 of BANA's counterclaims.
- 24. IV denies the allegations of paragraph 24 of BANA's counterclaims.

FIFTH COUNTERCLAIM

Declaratory Judgment of Non-Infringement of the 894 Patent

- 25. IV realleges its responses to paragraphs 1-12 of BANA's counterclaims.
- 26. IV denies the allegations of paragraph 26 of BANA's counterclaims.
- 27. IV denies the allegations of paragraph 27 of BANA's counterclaims.

SIXTH COUNTERCLAIM

Declaratory Judgment of Invalidity of the 894 Patent

- 28. IV realleges its responses to paragraphs 1-12 of BANA's counterclaims.
- 29. IV denies the allegations of paragraph 29 of BANA's counterclaims.
- 30. IV denies the allegations of paragraph 30 of BANA's counterclaims.

SEVENTH COUNTERCLAIM

Declaratory judgment of Non-Infringement of the 137 Patent

- 31. IV realleges its responses to paragraphs 1-12 of BANA's counterclaims.
- 32. IV denies the allegations of paragraph 32 of BANA's counterclaims.
- 33. IV denies the allegations of paragraph 33 of BANA's counterclaims.

EIGHTH COUNTERCLAIM

Declaratory Judgment of Invalidity of the 137 Patent

- 34. IV realleges its responses to paragraphs 1-12 of BANA's counterclaims.

35. IV denies the allegations of paragraph 35 of BANA's counterclaims.

36. IV denies the allegations of paragraph 36 of BANA's counterclaims.

NINTH COUNTERCLAIM

Declaratory Judgment of Non-Infringement of the 587 Patent

37. IV realleges its responses to paragraphs 1-12 of BANA's counterclaims.

38. IV denies the allegations of paragraph 38 of BANA's counterclaims.

39. IV denies the allegations of paragraph 39 of BANA's counterclaims.

TENTH COUNTERCLAIM

Declaratory Judgment of Invalidity of the 587 Patent

40. IV realleges its responses to paragraphs 1-12 of BANA's counterclaims.

41. IV denies the allegations of paragraph 41 of BANA's counterclaims.

42. IV denies the allegations of paragraph 42 of BANA's counterclaims.

WHEREFORE, IV requests that the Court enter judgment in favor of IV and against BANA on its counterclaims as follows:

1. That the Court enter judgment in favor of IV and against BANA;
2. That the Court declare that BANA has infringed and does infringe each asserted claim of the Patents-in-Suit;
3. That the Court declare each of the Patents-in-Suit not invalid;
4. That the Court declare that each of the Patents-in-Suit not unenforceable;
5. That the Court finds this case to be exceptional pursuant to 35 U.S.C. § 285, and award IV its costs (including expert fees), expenses and reasonable attorneys' fees in this Action; and

6. That the Court grant IV such other and further relief as the Court deems just and proper.

Respectfully submitted,

s/J. Daniel Bishop

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JURY TRIAL DEMAND

Plaintiffs demand a trial by jury on all issues so triable.

s/J. Daniel Bishop

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CERTIFICATE OF SERVICE

I hereby certify that on September 12, 2013, I served a copy of the foregoing document on all counsel who have consented to electronic service by filing it electronically and via the Court's CM/ECF system. I served any other counsel of record not deemed to have consented to electronic service by facsimile on the same date.

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